

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6961

Petition of Adelphia Business Solutions of)
Vermont, Inc., d/b/a TelCove, for Consent to)
Issue Notes or other Evidences of Indebtedness,)
and to Mortgage or Pledge Its Property and)
Provide Guaranties or Other Security in)
Connection With a Revolving Credit Facility)
)

Order entered: 6/4/2004

I. INTRODUCTION

On May 10, 2004, Adelphia Business Solutions of Vermont, Inc., d/b/a TelCove ("TelCove" or the "Company"), filed a petition with the Public Service Board (the "Board") requesting the Board to consent to the issuance of evidences of indebtedness by TelCove pursuant to a revolving Loan and Security Agreement by and among TelCove's parent company Adelphia Business Solutions, Inc. ("ABS"), TelCove, other subsidiaries of ABS, and Congress Financial Corporation, as Agent to Lenders, for an amount not to exceed \$45 million in the aggregate (the "Loan Agreement"), and to the mortgage and pledge of certain assets and the provision of security by TelCove therefor. TelCove supported the petition by the prefiled testimony and exhibit of Mr. Ed Babcock, Vice President and Chief Financial Officer of TelCove and ABS.

In its cover letter filing the Petition, TelCove requested expedited review and consideration by the Board, as the initial terms proposed by the lenders are scheduled to expire on May 31, 2004, unless extended by the lenders.¹

TelCove filed a Proposal for Decision on May 28, 2004. On May 21, 2004, the Vermont Department of Public Service (the "Department" or ("DPS")) filed a letter with the Board recommending that the Board consent to the Loan Agreement and security therefor without

1. TelCove subsequently notified the Board that the May 31, 2004, date had been extended to June 14, 2004.

further investigation or hearing. The DPS recommended approval of the Loan Agreement and waived its right to review this Proposal for Decision. In addition, TelCove states that the DPS has no objection to the Proposal for Decision filed by the Company. Section 108 requires that there be an opportunity for a hearing. Based on the absence of a request for a hearing from any party, the lack of an objection by any party to TelCove's petition and to the issuance of the Proposal for Decision as the Board's decision, and review of those filings and the record as a whole, I determined that an evidentiary hearing was not necessary.

Under § 108, the Board may consent to the Loan Agreement and the provision by TelCove of security therefor, only if it finds that such actions will be consistent with the general good of the state of Vermont. I recommend that the Board make such a finding and issue the requested approval under § 108 based on the specific findings of fact that follow.

Based upon the evidence of record, I hereby report the following findings to the Board in accordance with 30 V.S.A. § 8.

II. FINDINGS

1. TelCove is a "company" within the meaning of § 201 of 30 V.S.A. that provides intrastate telecommunications services as defined under Subsection (5) of § 203 thereof, and as such is subject to the Board's jurisdiction. Pet. at 1.

2. TelCove, as well as its parent, ABS, are corporations organized under the laws of the State of Delaware. These companies have recently emerged from bankruptcy, as recognized in the Board's Order of March 17, 2004, in *Pet. of Adelphia Business Solutions of Vermont, Inc., d/b/a TelCove*, Docket No. 6929. Pet. at 1.

3. To obtain general working capital and finance part of the purchase of the remaining capital stock or membership interest in PECO TelCove Communications, a Pennsylvania general partnership, ABS, and its subsidiaries including TelCove, intend to enter into a revolving Loan and Security Agreement (the "Loan Agreement") with Congress Financial Corporation, as Agent to Lenders, for an amount not to exceed \$45 million in the aggregate of loans and letter of credit accommodations. Pet. at 1-2; Babcock pf. at 3.

4. Under the Loan Agreement, ABS and its subsidiaries, including TelCove, will be required to provide security consisting of certain property owned or controlled by ABS and its

subsidiaries, including all of TelCove's assets (with certain exceptions, such as real estate) and TelCove will accordingly be obligated to mortgage or pledge such assets, including personal property, fixtures, accounts, inventory and equipment, instruments, promissory notes, documents, deposit accounts, or otherwise provide security or guaranty (the "Security"). Pet. at 2; Babcock pf. at 3-4; *see* exh. TelCove-1 at 3.

5. The term of the revolving Loan Agreement will be three years from the date of closing, with up to two, one-year extensions if mutually agreed. Babcock pf. at 4.

6. TelCove is a competitive, local-exchange carrier serving governmental, institutional, health-care and business customers throughout Vermont. Pet. at 2; Babcock pf. at 4-5.

7. In 2003, TelCove had gross revenues of approximately \$17 million, provided service to about 900 customer locations, operated approximately 15,000 access-line equivalents and, in general, provided a competitive, broadband alternative to the incumbent local-exchange carriers and other providers of broadband service in Vermont. Pet. at 2; Babcock pf. at 5.

8. TelCove is today the only competitive local exchange carrier offering a wireline, facilities-based alternative that is capable of serving customers throughout the State. Babcock pf. at 5.

9. Approval of the Loan Agreement and provision of Security by TelCove as requested, will enable TelCove to continue to serve its governmental, institutional, health-care and business customers throughout Vermont as a competitive, local-exchange carrier, and provide money for general working-capital purposes as ABS and its subsidiaries, including TelCove, emerge from bankruptcy. Pet. at 2-3; Babcock pf. at 5-6.

10. Therefore, the Loan Agreement, including specifically the loans to and issuance of evidences of indebtedness by TelCove and the provision by TelCove of Security, will be consistent with and promote the general good of the state. Pet. at 3; Babcock pf. at 6.

III. CONCLUSION

The evidence in this proceeding demonstrates that the proposed Loan Agreement and the provision of Security by TelCove are consistent with the general good of the State of Vermont.

Therefore, I find that the Loan Agreement and the provision of Security by TelCove is consistent with the general good of the State of Vermont. Accordingly, I recommend that the

Board find that the proposed Loan Agreement and the provision of Security by TelCove is consistent with the general good of the State of Vermont and issue an order to that effect.

All parties to this proceeding have waived their rights to comment on the Proposal for Decision in accordance with 3. V.S.A. § 811.

Dated at Montpelier, Vermont, this 4th day of June, 2004.

s/Ennis John Gidney
Ennis John Gidney
Hearing Officer

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The findings and conclusions of the Hearing Officer are adopted.
2. The Board consents to and approves the issuance of evidences of indebtedness by TelCove pursuant to a revolving Loan and Security Agreement with Congress Financial Corporation, as Agent to Lenders, for an amount not to exceed \$45 million in the aggregate of loans and letters of credit accommodations, and the provision of Security under the Loan and Security Agreement by TelCove, consisting of certain property owned or controlled by TelCove, including specifically all of TelCove's assets (with certain exceptions, such as real estate), and the mortgage and/or pledge of such assets or other provision of security or guaranty in accordance with the proposals and representations made in the course of this proceeding and finds that the same will be consistent with the general good of the State of Vermont.
3. This Order does not constitute approval of any particular capital or operating expenditure nor the underlying capital structure that TelCove may implement. Nothing in this approval shall preclude the Department or any other party, or the Board, from reviewing and/or challenging those expenditures and/or the Company's resulting capital structure in any future proceeding.

Dated at Montpelier, Vermont, this 4th day of June, 2004.

<u>s/Michael H. Dworkin</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: June 4, 2004

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.